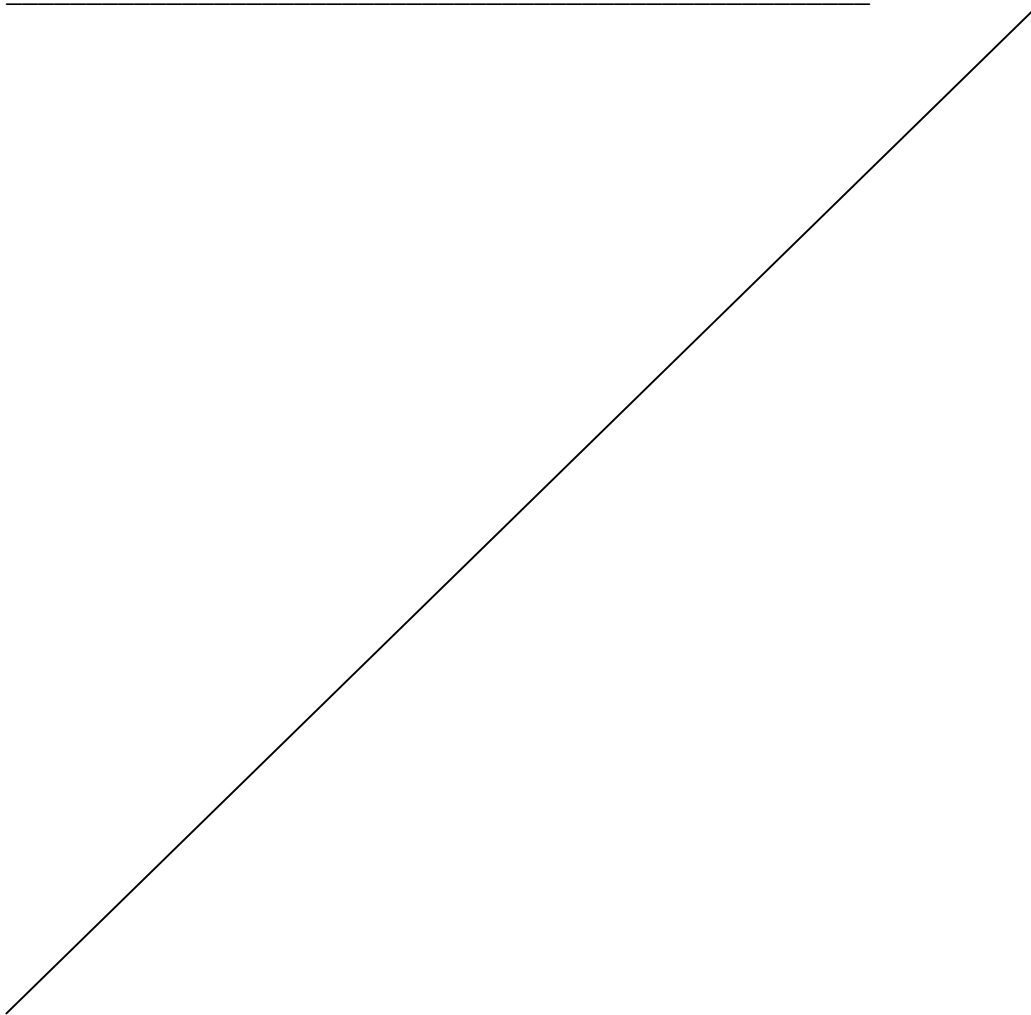


Rules Amending Title 13
Hawaii Administrative Rules

(Date)

1. Chapter 1 of Title 13, Hawaii Administrative Rules, entitled “Operation of Boats, Small Boat Harbors, and permits” is amended and compiled to read as follows:



“HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUB-TITLE 1 ADMINISTRATION

CHAPTER 231

OPERATION OF BOATS,
SMALL BOAT HARBORS, AND PERMITS

Subchapter 1

Use of Small Boat Harbors

- §13-231-1 General statement and restrictions on
mooring dormant vessels
- §13-231-2 Agreement for the use of small boat harbor
property, facilities, and offshore mooring
areas
- §13-231-3 Use permits; issuance
- §13-231-4 Use permits; part-time or intermittent
occupancy
- §13-231-5 Period of validity and renewal of
use permit
- §13-231-6 Revocation of use permit
- §13-231-7 Assignment and reassignment of

moorings and vessel storage space

- §13-231-8 Inspections
- §13-231-9 Cancellation of use permit
- §13-231-10 Removal of a vessel or contrivance
- §13-231-11 Absence of vessel for more than
fourteen days; effect on permits
- §13-231-12 Discontinuance of service
- §13-231-13 Joint and several liability;
non-transferability of use permits
- §13-231-14 Sale of abandoned vessels or to
collect delinquent fees
- §13-231-15 Boat owner required to report change of
ownership, address, and other changes
- §13-231-16 Numbers or other vessel identification
- §13-231-17 Mooring prohibited except at assigned
locations
- §13-231-18 Vessel reconstruction
- §13-231-19 Salvage
- §13-231-20 Houseboats prohibited
- §13-231-21 Restrictions on mooring vessels
utilized for living aboard at small boat
harbors other than Ala Wai and Keehi boat
harbors
- §13-231-22 Staying aboard transient or visiting vessels
- §13-231-23 Interim use of berth during temporary
absence of regular permittee's vessel
- §13-231-24 Interim use of berth pending occupancy
by regular permittee
- §13-231-25 Exchange of berths
- §13-231-26 Use of vessel as a place of habitation
- §13-231-27 Allocation of principal habitation permits
- §13-231-28 Staying aboard vessels moored at
Ala Wai or Keehi boat harbors
- §13-231-29 Vessel used as a vacation site
- §13-231-30 Restrictions on multiple permits
- §13-231-31 Administrative hearing
- §13-231-32 Rules of evidence; official notice
- §13-231-33
to
- §13-231-39 (Reserved)

Subchapter 2 Boat Operation

- §13-231-40 General statement
- §13-231-41 Navigation or mooring vessels in small boat
harbor
- §13-231-42 Interference with navigation
- §13-231-43 Pilotage
- §13-231-44 Vessel loading zone
- §13-231-45 Marine inspections
- §13-231-46 Vessel limitations

Subchapter 5 Allocation of Berths

- §13-231-80 General
- §13-231-81 Application for a berth; seniority of application; period of validity; renewal of application
- §13-231-82 Review and acceptance, or rejection of applications
- §13-231-83 Applicant required to furnish address and report changes; effect of failure to report changes
- §13-231-84 Withdrawal of application; effect if application has become void, expires, or has been withdrawn
- §13-231-85 Priority and procedures in allocation of berths
- §13-231-86 Categories of berths; priority of allocation
- §13-231-87 Notice to owner of available berth
- §13-231-88 Offer of regular mooring permit valid only fourteen days; written notice of acceptance
- §13-231-89 Offer of temporary mooring permit valid only seven days; notification of intention; acceptance
- §13-231-90 Offer of category I (breakwater) berth
 - Ala Wai small boat harbor

Historical note.

This chapter is based on use of small boat harbors, boat operation, commercial activities, special area rules, allocation of berths of the small boat harbors rules, effective November 5, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division. The administrative jurisdiction for recreational boating and related vessel activities was transferred from the Department of Transportation, Harbors Division, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94]

§13-231-26 Use of a vessel as a place of principal habitation. (a) A vessel owner who holds a valid regular mooring permit issued by the department authorizing the owner to moor the owner's vessel in Ala Wai or Keehi boat harbor may use that vessel as a place of principal habitation if the owner has applied for and secured:

- (1) A principal habitation permit; and

(2) A harbor resident permit issued by the department in accordance with these rules, provided that the owner and the vessel meet the requirements set forth in these rules.

(b) A permit authorizing the use of a vessel as a place of principal habitation shall not be issued if the vessel is owned by a corporation.

(c) No person shall be issued a permit authorizing the use of any vessel as a place of principal habitation while the vessel is moored at the following locations in Ala Wai boat harbor:

- (1) Berths 23 through 79;
- (2) The area leased to the Waikiki Yacht Club;
- (3) The area leased as a marine fueling facility;
- (4) The area leased to Ala Wai Marine, Ltd.; and
- [(5) The moorings adjacent to the breakwater.]

(d) A vessel owner may utilize the owner's vessel as a place of principal habitation while moored in the area leased to the Hawaii Yacht Club if the owner has applied for and holds a valid principal habitation permit and harbor resident permit issued by the department in accordance with these rules.

(e) Only the vessel owner, co-owner, the spouse or, in the alternative, one personal partner of each, and their legal dependents may be issued a harbor resident permit. A "personal partner" is an individual considered to be a "significant other" of the principal habitation permittee who is not a relative by biology or adoption to the principal habitation permittee. While living together on the vessel, the principal habitation permittee and personal partner shall not have a landlord-tenant relationship.

The department shall retain the right to limit the total number of people allowed to live on a particular vessel based on reasonable health, safety, security, or environmental concerns for persons on the vessel, other permittees at the harbor, public use of the harbor, or the harbor itself, and may deny the issuance of a harbor resident permit if such issuance would exceed the limit determined by the department to be appropriate.

(f) The owners of no more than one hundred twenty-nine vessels moored at Ala Wai boat harbor shall be issued permits to use their vessels as a place of principal habitation. The owners of no more than thirty-five vessels moored at Keehi boat harbor shall be issued such permits. Any vessel used as a place of principal habitation that is temporarily absent from its moorings shall continue to be considered as one of the vessels being used as a place of principal habitation if the owner retains a principal habitation permit as provided in section 13-231-11.

[Eff 2/24/94; _____] (Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-2, 200-9, 200-10)

2. Material, except source notes, to be repealed is bracketed. New material is underscored. Additions to update source notes to reflect new amendments are not underscored.
3. Additions to update source notes to reflect these amendments and compilation are not underscored.
4. This amendment to and compilation of Chapter 13-1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

LAURA H. THIELEN
Chairperson

Board of Land and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General